

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

AERO TECH, INC.,

Plaintiff,

-against-

GREAT AMERICAN INSURANCE COMPANY dba
GREAT AMERICAN INSURANCE GROUP AND
GREAT AMERICAN INSURANCE AGENCY, INC.,

Defendants.

Case No.: 1:20-cv-1311

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1332, 1441(a) and 1446, Defendant Great American Insurance Company (“Great American”) through its attorneys Schnader Harrison Segal & Lewis LLP and Modrall, Sperling, Roehl, Harris & Sisk, hereby files its Notice of Removal to this Court of an action pending against it in the State of New Mexico’s Ninth Judicial District Court, County of Curry. Removal is based on the following grounds:

1. On November 17, 2020, this action was commenced by Plaintiff in the State of New Mexico’s Ninth Judicial District Court, County of Curry via the filing of a Summons and Complaint. This case is known as *Aero Tech, Inc. v. Great American Insurance Company dba Great American Insurance Group and Great American Insurance Agency, Inc.*, Case No. D-905-CV-2020-00490. The complaint is attached hereto as Exhibit A. The remainder of the state court filings are attached as Exhibit B.

2. Aero Tech alleges that Great American wrongfully denied its insurance claim for approximately \$700,000 for damage to the engine of an aircraft bearing Registration No.

N802AL, and is asserting causes of action for breach of contract, breach of fiduciary duty, and declaratory judgment. Exhibit A.

3. This case may be removed based on the diversity jurisdiction of this Court.

4. This Court has diversity jurisdiction over this action under 28 U.S.C. § 1332(a), which provides, in relevant part: “The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States”

5. Complete diversity of citizenship exists.

6. Upon information and belief, Aero Tech is a Delaware corporation with its principal place of business in the City of Clovis, Curry County, New Mexico.

7. Great American is a corporation organized and existing under the laws of Ohio, with its principal place of business in Cincinnati, Ohio.

10. Plaintiff seeks recovery for damage to an aircraft engine totaling approximately \$700,000. *See* Complaint, Exhibit “A”, at ¶ 23. Accordingly, the amount in controversy is in excess of \$75,000.

11. Pursuant to 28 U.S.C. § 1446(b), a defendant may remove an action within 30 days after receipt of a copy of the complaint through service or otherwise.

12. The complaint was served on Great American through CT Corporation System on November 17, 2020. Accordingly, this Notice of Removal is timely as it is being filed within 30 days of service of the Complaint by Aero Tech.

13. Finally, the United States District Court for the District of New Mexico is the proper venue for removal of this action because it is the district in which the state court action is pending. *See* 28 U.S.C. § 1446(a).

14. Written notice of the filing of this Notice will be served on the adverse parties as required by 28 U.S.C. 1446(d).

15. A true and correct, time stamped copy of this Notice will be filed with the District Court for Curry County, New Mexico, as provided by 28 U.S.C. 1446(d).

16. Great American is the only named Defendant in this case, so consent of other parties is not required.

WHEREFORE, Defendant Great American Insurance Company herein requests that this action be removed from the State of New Mexico's Ninth Judicial District Court to the United States District Court for the District of New Mexico.

Dated: December 17, 2020

Respectfully Submitted,

MODRALL, SPERLING, ROEHL,
HARRIS & SISK

By /s/ Jeremy K. Harrison

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